

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1117X

ST. LAWRENCE & ATLANTIC RAILROAD COMPANY—DISCONTINUANCE OF
SERVICE EXEMPTION—IN CUMBERLAND COUNTY, ME.

IN THE MATTER OF AN OFFER OF FINANCIAL ASSISTANCE

Decided: November 10, 2014

By petition filed on November 8, 2013, St. Lawrence & Atlantic Railroad Company (SLR) sought an exemption under 49 U.S.C. § 10502 from the prior approval requirements of 49 U.S.C. § 10903 to discontinue service over approximately 24.23 miles of rail line owned by the State of Maine located between milepost 1.74 near Deering, Me., and milepost 25.97 at the town line between New Gloucester and Auburn, Me. (the Line). The Board served and published a notice of the petition in the Federal Register on November 27, 2013 (78 Fed. Reg. 71,037). By decision served February 25, 2014 (February 25 Decision), the Board granted the discontinuance, subject to conditions. The discontinuance exemption was scheduled to become effective on March 27, 2014, unless stayed by the Board or an offer of financial assistance (OFA) was filed by March 7, 2014. At the request of B&G Foods North America, Inc. (B&G), and with the agreement of SLR, the OFA deadline was ultimately extended to November 5, 2014.

On November 5, 2014, B&G filed an OFA to subsidize continued operations on the Line for one year. B&G is a wholly owned subsidiary of B&G Foods, Inc. (BGS), a publicly traded company that is listed on the New York Stock Exchange.

An OFA to subsidize operations for continued rail service need not be detailed, but an offeror must show that the offeror is financially responsible and that the offer is reasonable. See Conrail Abandonments under NERSA, 365 I.C.C. 472 (1981). According to B&G, BGS has available a borrowing capacity exceeding \$400 million as of September 27, 2014.¹ As its wholly owned subsidiary, these resources are available to B&G. B&G's offer to subsidize the Line for

¹ B&G provides a link to BGS's most recent Securities and Exchange Commission annual report. See <http://www.sec.gov/Archives/edgar/data/1278027/000104746914001384/a2218372z10-k.htm>. The annual report indicates that BGS's revolving credit facility was \$300 million as of December 28, 2013, an amount well in excess of the subsidy price.

one year of operations is \$111,529, which B&G indicates matches SLR's estimate. This amount is far less than the financial resources available to B&G. The Board finds B&G to be financially responsible and that the offer is reasonable.

Because B&G is financially responsible and has offered financial assistance, the effective date of the exemption authorizing the discontinuance will be postponed.

The Board's regulations contemplate that the carrier and a financially responsible person will reach an agreement setting the terms and conditions of the subsidy. If they do not, either party may request the Board to do so. 49 C.F.R. § 1152.27(g). Any person filing a request to set terms and conditions must pay the requisite filing fee, set forth at 49 C.F.R. § 1002.2(f)(26), which currently is \$23,800. An original and 10 copies of the request should be submitted, along with the fee, in an envelope bearing the docket number of this proceeding, along with the words "Attention: Request to Set Terms and Conditions" in the lower left hand corner.

Appeals to this decision are governed by 49 C.F.R. § 1011.2(a)(7). Any appeal must be filed within 10 days of the service date of this decision and will be heard by the entire Board.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The effective date of the exemption is postponed to permit the OFA process under 49 U.S.C. § 10904 and 49 C.F.R. § 1152.27 to proceed.
2. If B&G and SLR enter into a subsidy agreement, they shall so notify the Board by December 5, 2014. If B&G and SLR cannot agree on the subsidy price, either party may request the Board to establish the terms and conditions of the subsidy on or before December 5, 2014. If no agreement is reached and no request is submitted by that date, the Board will serve a decision vacating this decision and allowing the discontinuance exemption to become effective.
3. This decision is effective on its date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.